

# CONTRACT

THIS AGREEMENT is entered into as of the 2<sup>nd</sup> day of January, 2007 by and between Indiana Assessment Service, (Contractor) with its principal address located at 1611 Main Street, Rochester, Indiana 46975-2621, and Marshall County, (Client) with its principal address located at 112 W. Jefferson St., Room 207, Plymouth, IN 46563-1764.

In consideration of Client retaining Contractor to provide real property assessment consulting service for Client, it is agreed as follows:

- (1) **TERMS OF AGREEMENT:** - Contractor real property assessment consulting service will provide real property assessment assistance to the Client. The Client agrees that Contractor provides consultation on request. Both parties further agree that Contractor real property assessment consultation shall not exceed 90 (ninety) hours of consultation service time within the stipulated contract period. The contract period is January 1, 2007 to December 31, 2007.

The following fee shall apply:

The fee is \$ 13050.00 (thirteen thousand fifty)\*.

*\*NOTE: This is an annual fee, which is billed in 12 (twelve) equal monthly payments. On the first day of each month, Contractor will submit a monthly billing invoice to the Client. The amount stipulated on the monthly billing invoice will be due within 45 (forty-five) days from the date of the billing invoice. If services are completed prior to the end of the stipulated contract period, Contractor will submit final billing invoice to include the entire sum of the remaining fees due the Contractor.*

- (2) **DESCRIPTION OF SERVICE:** - The Client hereby retains Contractor, under the provisions of the contractual agreement, to perform the following real property assessment consulting services:

**2a) TELEPHONE CONSULTING SERVICE:** - Contractor provides the local assessing official with real property assessment consulting by answering technical and procedural real property assessment questions. Contractor technical support uses the Indiana Code (Title 6 - Taxation), the 2002 Real Property Assessment Guidelines, the Department of Local Government and Finance Instructional bulletins and directives, the county land valuation order, and Indiana Tax Court decisions.

**2b) ON SITE CONSULTING SERVICE PROVIDED TO COUNTY AND TOWNSHIP ASSESSING OFFICIALS:** - Contractor provides on site real property assessment consultation to assist the local assessing official in working out difficult real property assessment problems that can not be resolved over the telephone.

Contractor provides on site real property assessment consultation to assist the local assessing official with reviewing difficult assessment issues under appeal. Real property assessment appeals are filed on Form 133, Form 130, or Form 131. Contractor will assist the assessor in analyzing issues under appeal. Contractor's goal is to assist in correcting the assessment locally. If the petitioner is not satisfied with the local assessment and appeals that assessment to either the Property Tax Assessment Board of Appeals (PTABOA) or the Department of Local Government and Finance (DLGF), Contractor will assist the local assessing official, creating the county evidence file for the hearing(s). When necessary, Contractor will provide expert testimony and cross-examine petitioner at each hearing. When necessary, Contractor will assist the local assessing official and provide expert testimony at trial in the Indiana Tax Court.

*NOTE: All on site real property assessment consultation must be scheduled in advance. The local assessing official must contact Contractor to schedule appointment times and dates.*

**2c) ON SITE CONSULTING SERVICE PROVIDED TO ASSESSING OFFICIALS SERVING ON THE PROPERTY TAX ASSESSMENT BOARD OF APPEALS:** - Contractor will provide real property assessment consultation to the assessing officials serving as members of the PTABOA, assisting them in their review of difficult assessment issues under appeal. Contractor will assist the PTABOA members with developing requests for needed support evidence, assist in developing a record of the hearing, and assist in writing the PTABOA finding and final assessment determination. Upon request, Contractor will act as special hearing officer for PTABOA on complicated issues.

- (3) **FAILURE TO USE SERVICE:** - If the Client does not use all of their annual service time, Contractor is not required to refund monies or adjust the annual fee.
- (4) **EXTENDING ASSESSMENT CONSULTING SERVICE:** - If all of the Client's service time has been used prior to the end of the stipulated contract period, the Client may extend service at an additional cost. The basis of the additional cost of extended service is to be calculated from the service fees established under the provisions of this contract.

- (5) **ENTRY AND WORKSPACE:** - The Client agrees to supply temporary workspace area (free of charge) to Contractor agents. The temporary workspace area shall be located within the local assessing official's office. Temporary workspace area is provided to Contractor on a short-term basis, to the level considered necessary by mutual agreement of both parties, to fulfill any obligations for the Client.
- (6) **TERMS AND CONDITIONS:** - It is understood that the Client and Contractor shall, at all times, have complete control over the services of its personnel while working under this contractual agreement, and expressly reserves the right to control the manner, means and details to ensure performance of services, as well as the ends to be accomplished. It is also understood that either party shall not solicit any Client or Contractor agent(s) for employment. If either party fails to comply with this contractual provision, and hires the Client or Contractor agent as an employee, the offending party agrees to pay the entire gross annual amount of that employee's total annual gross salary\* as compensation to the appropriate party for employee loss.
- \*NOTE: Total annual gross salary will be determined using Client or Contractor's current record of gross annual salary for that employee.*
- (7) **CONFIDENTIAL INFORMATION:** - The parties have determined that certain needed information from the Client to the Contractor is confidential in nature. The Client upon marking the needed information as "Confidential" limits the use of that information by the Contractor. Contractor may use "Confidential" information of Client only for the purpose of this contractual agreement, and shall protect such "Confidential" information from disclosure to others, using the same degree of care used to protect its own proprietary information of like importance, but in any case using no less than a reasonable degree of care. Contractor may disclose "Confidential" information received hereunder only for the purpose of providing evidence to defend an assessment to county or state assessing authorities. Contractor may disclose "Confidential" information received hereunder to Contractor's attorney. No other disclosure of "Confidential" information is permitted. Client assumes all risks, known or unknown, incident to Contractor use of "Confidential" information, and Contractor shall have no liability of any kind to Client or any third party arising out of such use.
- (8) **DEFAULT:** - If Client shall fail to pay payment when due, or perform any term hereof, after not less than seven (7) days written notice of such default given in the manner required by law, the Contractor, at his option, may terminate all services described within this contract, unless Client, within said time, shall cure such default. In the event of default of payment by Client, Contractor may elect to (a) continue the contract in effect and enforce all his rights and remedies hereunder, including the right to recover the payment(s) as they become due, or (b) at any time terminate all of the Client's rights hereunder and recover from the Client all damages he may incur by reason of the breach of the contract, including the cost of all future unpaid contractual payments, the cost of recovering all future unpaid contractual payments, the Contractor's loss of income to cover the amount of time spent to enforce this provision, and the Contractor's reasonable incurred attorney fees.
- (9) **WAIVER:** - Failure of Contractor to enforce any term hereof shall not be deemed a waiver, nor shall any acceptance of a partial payment be deemed a waiver of the Contractor's right to the full amount thereof.
- (10) **SEVERABILITY:** - If any provision or clause of this contract or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the contract which can be given effect without the invalid provision of application, and to this end the provisions of this contract are declared to be severable.
- (11) **ATTORNEY FEES:** - In any legal action brought by the either party to enforce the terms hereof, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee.
- (12) **TERMINATION OF THIS ENTIRE AGREEMENT:** - Termination of this entire agreement may be made by either party, with 30 days written notice. Written notice must be given by certified mail. The remaining fee, which is due the Contractor from the Client, based on the amount of hours used at the termination date, is to be paid in full on the date of contract termination, unless termination is for cause, in which case the remainder of the annual fee shall not be due.
- (13) **NOTICES:** - Any notice which either party may give, or is required to give, may be given by mailing the same, postage prepaid, to the Client at the address shown below or to the Contractor at the address shown below, or at such other places as may be designated by the parties from time to time.
- (14) **INDEPENDENT CONTRACTOR AGREEMENT:** - It is understood that the Contractor executes this agreement as an independent contractor and is not an employee of the Client.

(15) **ENTIRE AGREEMENT:** - The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties. The following attachment(s) and rider(s), if any, have been made a part of this agreement before the parties' execution hereof: \_\_\_\_\_

Dated this the 5<sup>th</sup> day of February, 2007.

Board of Commissioners of the County of Marshall

Print Client Name

112 W. Jefferson St., Room 207

Client Principal Address

Plymouth, IN 46563-1764

City/State/ZIP Code

574-935-8525

Client Telephone Number

*Kenneth D. Dwyer*

County Commissioner Signature

*Thomas J. Chell*

County Commissioner Signature

*Jack W. Rose*

County Commissioner Signature

Attest:

*Jan A. Luvig*

Edward J. Bisch for Indiana Assessment Service

Print Contractor Name

*E. J. Bisch*

Contractor Signature

President

Contractor Title

1611 Main St.

Contractor Principal Address

Rochester, IN 46975-2621

City/State/ZIP Code

574-223-4777

Contractor Telephone